

## **DISCLAIMER**

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## **APPLICATION OF**

**APPALACHIAN POWER COMPANY**

**CASE NO. PUE970766**

**For certificates of public convenience  
and necessity authorizing transmission lines  
in the Counties of Bland, Botetourt, Craig,  
Giles, Montgomery, Roanoke and Tazewell:  
Wyoming-Cloverdale 765 kV Transmission  
Line and Cloverdale 500 kV Bus Extension**

## **HEARING EXAMINER'S RULING**

**July 7, 1999**

On May 28, 1999, the Bland County Board of Supervisors; Alliance for the Preservation and Protection of Appalachian Land, Inc.; and the Citizens United to Protect Tazewell County, Inc. (collectively "Protestants"), by counsel, filed a Motion for Ruling Directing Identification of Alternative Transmission Line Corridor (WJFE-9), a Motion to direct Appalachian Power Company ("AEP" or "Company") to redo the karst impact analysis for all corridors using proper methodology and exploiting all readily available geologic data, and a Motion for an order directing the Company to correct other errors in the Wyoming-Cloverdale environmental studies ("May 28 Motions").

By Hearing Examiner's Ruling of June 11, 1999, the Company, Staff, and other parties were given until June 25, 1999, to respond the May 28 Motions. The Company and the Giles County Board of Supervisors, Citizens Organized to Protect the Environment of Giles County, Citizens for the Preservation of Craig County, and the Roanoke Preservation League filed responses recommending the May 28 Motions be denied.

On June 21, 1999, Protestants filed a Motion to Suspend Procedural Schedule and to Establish a New Procedural Schedule ("June 21 Motion"). Protestants claim their request for a new procedural schedule is necessary to afford newly affected persons the protections mandated by Section 56-46.1E of the Code of Virginia. The May 28 Motions are cited as further reason for a revision of the procedural schedule.

## **WJFE-9 CORRIDOR**

Protestants request a Ruling directing the Company to aggregate its data for corridor WJFE-9 in order that a comparison may be made with other alternative routes. In support

of its motion, Protestants list several attributes which they claim make this corridor environmentally preferable to other proposed corridors. (May 28 Motions at 4).

Corridor WJFE-9, identified by the Company as AC 1 Alternative, has been evaluated by the Universities Study Team ("UST") and for reasons set forth in the Report on Wyoming-Jacksons Ferry 765 kV Alternative Project filed on May 7, 1999 (Volume XI, at pp. 0010-0011), was rejected by the Company as a preferred corridor. However, as previously noted in Hearing Examiner's Ruling of May 7, 1998, all feasible routes will be explored.

The Company, in its response, argues that Protestants can make appropriate discovery requests for data pertaining to this corridor. Through the filing of testimony and cross-examination of witnesses, Protestants can present a case for this corridor. Corridor WJFE-9 will be considered with all other alternatives and Protestants are entitled to discover information pertaining to this and any other corridor, pursuant to the Rules of this Commission. However, Protestants have failed to show that information pertaining to corridor WJFE-9 is not available through discovery. Therefore, this motion is denied.

### **Karst Impact Analysis**

Protestants have performed an independent study of the potential impact on karst aquifers and ecosystems in segments C and G of the preferred corridor and segments B, F, and H of alternate corridors 1 and 3, located south of Narrows, Virginia. (May 28 Motions at 6). Protestants claim their study has revealed severe methodological errors and inconsistencies in the analysis of the potential impact on karst presented in the Company's application. Protestants request the "Company be directed to redo the karst impact analysis for all corridors using proper methodology and exploiting all readily available geologic data in accordance with [Protestants' karst] report." (*Id.* at 8).

The fact that Protestants find fault with the Company's karst analysis is insufficient reason to direct the Company to engage in further study. Protestants may challenge the Company's analysis and conclusions regarding karst impacts in their prefiled testimony and on cross-examination of witnesses. This motion is denied.

### **Alleged Errors in the Company's Wyoming-Cloverdale Environmental Studies**

Protestants have evaluated the Company's raw data and have alleged errors in the Company's environmental impact assessment. In order to achieve a fair evaluation of the alternative routes, Protestants claim it is critical that these alleged errors be corrected. (*Id.* at 9).

The fact that Protestants disagree with the Company's environmental information and analysis does not constitute sufficient cause to require the Company to revise its

filings. Again, these points are properly addressed in Protestants' prefiled testimony and on cross-examination of witnesses. This motion is denied.

## **Motion to Revise Procedural Schedule**

In its June 21 Motion, Protestants request the current procedural schedule be suspended and a new procedural schedule affording newly affected persons equal protections be established. In support, Protestants note that Section 56-46.1 E of the Code of Virginia provides that, in the event a new route for a proposed transmission line is considered, new parties shall be afforded the same protections as previous parties. Protestants complain that:

1. Previously, parties had eighty-seven (87) days between the time notice was published in local newspapers and local hearings were held. Protestants were afforded only twenty-two days (22) between publication of notice and the first of four local hearings;
2. Previously, parties had one hundred and fifty (150) days following completion of newspaper notice to prepare and file testimony. Pursuant to the current procedural schedule, Protestants have one hundred and thirteen (113) days to prepare and file testimony;
3. The current evidentiary hearing is scheduled to commence one hundred and sixty (160) days after newspaper publication. Protestants complain the previous evidentiary hearing was scheduled one hundred and ninety-nine (199) days after published notification;
4. The current public hearings are scheduled for the month of July, prime family vacation time;
5. The evidentiary hearing scheduled for November 29, 1999, would begin on the Monday following the four day Thanksgiving holiday weekend, the heaviest travel weekend of the year; and
6. The Company, in its filing, notes that the UST has been asked to prepare a supplemental report that addresses a route that avoids the Jefferson National Forest.

I find this motion should be denied for the following reasons. First, additional public hearings will be scheduled if requested, for good cause shown. Additional hearings would be for public witnesses who have not previously testified and cannot attend the hearing in Richmond on November 29, 1999. Second, Protestants base their request only on the number of days between notice and hearings or deadline for prefiled evidence. Protestants do not claim insufficient time to prepare prefiled evidence or secure witnesses. A motion based simply on the number of days without further support does not constitute sufficient reason to alter the procedural schedule. Third, the Company has not, at this time, requested consideration of additional routes. Therefore, this ground is speculative at best and certainly does not constitute sufficient reason for a new procedural schedule. Accordingly,

**IT IS DIRECTED THAT:**

- (1) The current procedural schedule shall remain in full force and effect;
- (2) Additional public hearings will be scheduled, if requested, for good cause shown;
- (3) Protestants' motion for consideration of Corridor WJFE-9 is unnecessary because all corridors will be considered, therefore this motion is neither granted nor denied;
- (4) Protestants' motion that the Company be directed to revise its karst study is denied; and
- (5) Protestants' motion that the Company be directed to revise its environmental study is denied.

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Howard P. Anderson, Jr.  
Hearing Examiner